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No. 89-478

IN THE

Supreme Court of the United States

OCTOBER TERM, 1989

STATE OF MARYLAND,

Petitioner,

v.

SANDRA ANN CRAIG,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF MARYLAND

Motion for Leave to File Brief Amici Curiae and Brief Amici Curiae on Behalf of People Against Child Abuse, Inc. (PACA), the Assoication For Childcare Excellence (ACE), and the Maryland Coalition Against Sexual Assault (MCASA)

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On Petition For A Writ of Certiorari
To The Court of Appeals of Maryland

MOTION FOR LEAVE TO FILE BRIEF AMICI CURIAE ON BEHALF OF PEOPLE AGAINST CHILD ABUSE, INC., THE ASSOCIATION FOR CHILDCARE EXCELLENCE, AND THE MARYLAND COALITION AGAINST SEXUAL ASSAULT

People Against Child Abuse, Inc., ("PACA"), the Association for Childcare Excellence ("ACE"), and the Maryland Coalition Against Sexual Assault ("MCASA") hereby respectfully move this Court for leave to file a brief as *amici curiae* in support of the State's Petition for a Writ of Certiorari. The consent of the attorneys for the Petitioner has been obtained for the filing of the brief *amici curiae* by PACA, ACE, and MCASA. The consent of the attorneys for

Respondent was requested by *amici* but was refused, because, at that time, Respondent's counsel stated that they did not intend to file a response to the Petition for a Writ of Certiorari.

People Against Child Abuse, Inc., ("PACA") is a statewide organization which is the Maryland Chapter of the National Committee for the Prevention of Child Abuse. PACA is dedicated to the prevention and elimination of child abuse and neglect in the State of Maryland. The Association for Childcare Excellence ("ACE") is a Maryland organization of parents and professionals which promotes safe and affordable child care for the citizens of Maryland. The Maryland Coalition Against Sexual Assault ("MCASA") is the network of Sexual Assault Centers in the State of Maryland: the Coalition works toward attitudinal change of institutions and the population at large. These organizations have considerable experience with and expertise in child abuse in day care settings. Some members are parents of abused children; others were themselves abused as children. Members also include prosecutors who have handled day care child abuse cases, and professionals who treat abused children. PACA was instrumental in the enactment of the current Maryland closed circuit television statute for the protection of child victims, the interpretation of which is at issue in this case.

Amici believe that the Court of Appeals of Maryland, in reversing the conviction of Sandra Ann Craig, a day care operator from Howard County, Maryland, has misconstrued the holding of this Court in *Coy v. Iowa*, ___ U.S. ___ , 108 S.Ct. 2798, 101 L.Ed. 2d 857 (1988). The Maryland court's literal construction of the Confrontation Clause, based on *Coy*, has not only

effectively nullified Maryland's statutory attempt to protect child victims of abuse, but has potentially threatened the viability of other similar State statutes, which require a showing of necessity before protective measures may be invoked. Thus, this case presents a question which has implications far beyond the particular facts now before this Court.

Because the *amici* believe that the case below was wrongly decided and because this case involves an issue of important public policy, the balance between the rights of criminal defendants and child victims, PACA, ACE, and MCASA wish to join Petitioner in urging this Court to grant a Writ of Certiorari and review this case on the merits. Consequently, the three organizations respectfully request that this Court grant them leave to file their brief *amici curiae* in the form submitted with this motion.

Respectfully submitted,

/s/ Paul A. Dorf

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QUESTIONS PRESENTED

Where individualized findings regarding the need to protect child witnesses are made and the witnesses, ages four to seven, are subjected to cross-examination at trial, does the Sixth Amendment's Confrontation Clause require a face-to-face meeting between the witnesses and the accused before a one-way closed-circuit television procedure may be invoked?

TABLE OF CONTENTS

	Page
INTEREST OF AMICI CURIAE	1
STATEMENT OF THE CASE	3
REASONS FOR GRANTING THE WRIT	4
I. The Maryland Court of Appeals' Reading of *Coy* Eviscerates Maryland's Statutory Attempt to Protect Child Victims	4
II. *Craig* Provides the Opportunity to Clarify *Coy v. Iowa*	11
A. *Coy* Has Cast A Shadow Over May States' Child Protection Statutes	11
B. The Rationale Of *Coy* Is In Apparent Conflict With Other Decisions By This Court	13
CONCLUSION	15

TABLE OF AUTHORITIES

Cases	Page
Altmeyer v. State, 496 N.E.2d 1328 (Ind. App. 1986)	12
Bourjaily v. United States, 483 U.S. 171, 107 S.Ct. 2775, 97 L.Ed. 2d 144 (1987)	13,14
Commonwealth v. Lohman, 536 A.2d 809 (Pa. Super. 1988)	12
Commonwealth v. Willis, 716 S.W.3d 244 (Ky. 1986)	12
Coy v. Iowa, ___ U.S. ___, 108 S.Ct. 2798, 101 L.Ed. 2d 857 (1988)	3-6,8,11-15
Craig v. State, 316 Md. 551, 560 A.2d 1120 (1989)	4-8,11-13
Craig v. State, 76 Md. App. 250, 544 A.2d 784 (1988)	4
Douglas v. Alabama, 380 U.S. 415, 85 S.Ct. 1074, 13 L.Ed. 2d 934 (1965)	13,14
Kentucky v. Stincer, 482 U.S. 730, 107 S.Ct. 2658, 96 L.Ed. 2d 631 (1987)	14
Lee v. Illinois, 476 U.S. 530, 106 S.Ct. 2056, 90 L.Ed. 2d 514 (1986)	13,14
Ohio v. Roberts, 448 U.S. 56, 100 S.Ct. 2531, 65 L.Ed. 2d 597 (1980)	13-15
Pennsylvania v. Ritchie, 480 U.S. 39, 107 S.Ct. 987, 94 L.Ed. 2d 40 (1987)	7
People v. Algarin, 129 Misc.2d 1016, 498 N.Y.S.2d 97 (1986)	12
People v. Kasben, 158 Mich. App. 252, 404 N.W.2d 723 (1987)	12
Pointer v. Texas, 380 U.S. 400, 85 S.Ct. 1065, 13 L.Ed. 2d 923 (1965)	8
State v. Chisholm, 243 Kan. 270, 755 P.2d 547 (1988)	12

Table of Authorities Continued

	Page
State v. Racca, 525 So.2d 1229 (La. Ct. App. 1988)	12
State v. Sheppard, 197 N.J. Super. 411, 484 A.2d 1330 (1984)	8,9,12
United States v. Inadi, 475 U.S. 387, 106 S.Ct. 1121, 89 L.Ed. 2d 390 (1986)	13
Wildermuth v. State, 310 Md 496, 530 A.2d 275 (1987)	12
Constitutional Provisions	
United States Constitution:	
Sixth Amendment	2,3,12,15
Statutes	
Annotated Code of Maryland:	
Courts and Judicial Proceedings Article, Section 9-102	3,4,12
Indiana Code Annotated Section 35-37-4-8	12
California Evidence Code Section 240	12
Other Authorities	
Avery, *The Child Abuse Witness: Potential for Secondary Victimization*, 7 Crim. Just. J. 1 (1983)	5
J. Bulkley and H. Davidson, *Child Sexual Abuse—Legal Issues and Approaches* 11 (1980)	5
Comment, *Balancing the Right to Confrontation and the Need to Protect Child Sexual Abuse Victims: Are Statutes Authorizing Televised Testimony Serving Their Purposes?* 12 U. Pudget Sound L. Rev. 109 (1988)	14
Comment, *The Confrontation Clause and the Hearsay Rule: A Problematic Relationship in Need of Practical Analysis*, 14 Fla. St. U.L. Rev. 949 (1987)	14

Table of Authorities Continued

	Page
Epps, *Passing the Confrontation Clause Stop Sign: Is All Hearsay Constitutionally Admissable?*, 77 Ky. L.J. 7 (1988)	14
Finkelhor, Williams, Burns and Kalinowski, *Sexual Abuse in Day Care: A National Study* (March 1988)	10
Goodman, Jones, Pyle *et al.*, "The Emotional Effects of Criminal Court Testimony on Child Sexual Assault Victims," in *Proceedings from the International Conference on Child Witness: Do the Courts Abuse Children?*	5
Libai, *The Protection of the Child Victim of a Sexual Offense in the Criminal Justice System*, 15 Wayne L. Rev. 977 (1969)	5
Lilly, *Notes in the Confrontation Clause and Ohio v. Roberts*, 316 U. Fla. L. Rev. 207 (1984)	14
J. MacDonald, *Rape Offenders and Their Victims* (1971)	7
MacFarlane, "Sexual Abuse of Children," in *Victimization of Women* (J. Chapman & M. Gates eds. 1978)	9
Melton, *Child Witness and the First Amendment: A Psychological Dilemma*, 40 J. Soc. Issues 109 (1984)	5
Myers, *The Legal Response to Child Abuse: In the Best Interests of Children?* 24 J. Fam. L. 146 (1985-86)	5,9
Supreme Court Ramifications: Reliability of Codefendant Confessions and the Confrontation Clause: Lee v. Williams, 2 J. Legal Comm. 121 (1987)	14
D. Whitcomb, E. Shapiro, and L. Stellwagen, *When the Victim Is a Child: Issues for Judges and Prosecutors* (1985)	5

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BRIEF *AMICI CURIAE* ON BEHALF OF PEOPLE AGAINST CHILD ABUSE, INC., THE ASSOCIATION FOR CHILDCARE EXCELLENCE, AND THE MARYLAND COALITION AGAINST SEXUAL ASSAULT

INTEREST OF AMICI CURIAE

This brief, in support of the Petition for a Writ of Certiorari filed by the State of Maryland, is submitted on behalf of People Against Child Abuse, Inc. ("PACA"), the Association for Childcare Excellence ("ACE"), and the Maryland Coalition Against Sexual Assault ("MCASA").

People Against Child Abuse, Inc. ("PACA") is a private, nonprofit, state-wide organization dedicated to the prevention and elimination of child abuse and

neglect in the State of Maryland. PACA is the Maryland chapter of the National Committee for the Prevention of Child Abuse. PACA attempts to accomplish its goals through legislative efforts, conferences on victims' rights, establishing support groups, and community education.

The Association for Child Care Excellence ("ACE") is a Maryland organization of parents and professionals dedicated to promoting safe and affordable child care for the citizens of Maryland. ACE advocates for child care licensing standards which will produce safe and enriching environments for children. One of ACE's primary goals is to increase protection for children in day care.

The Maryland Coalition Against Sexual Assault ("MCASA") is the network of Sexual Assault Centers in the State of Maryland, which serves as the primary state forum for influencing public policy and opinion regarding sexual assault. The objectives of the coalition are to share expertise, experience and knowledge among the centers and with the public at large; to insure that services are made available to all victims of sexual assault in the State regardless of age and sex; and to work toward the elimination of sexual assault through effective attitudinal change of individuals, institutions, and the culture at large.

The *amici* have an interest in this matter because they are child advocacy groups dedicated to advancing the rights and interests of victims of child abuse. The *amici* are convinced that as a result of the Maryland Court of Appeals' erroneous interpretation of this Court's decision in *Coy v. Iowa*, ___ U.S. ___ , 108 S.Ct. 2798, 101 L.Ed. 2d 857 (1988) and the Sixth Amendment to the United States Constitution, child

abuse victims will be unnecessarily traumatized and many perpetrators of child abuse will go unpunished.

The *amici*, therefore, submit this brief in support of the State of Maryland's Petition for Writ of Certiorari, and request that this Court clarify the constitutional protections provided to alleged perpetrators of child abuse by the Sixth Amendment to the United States Constitution, in light of its holding in *Coy*.

STATEMENT OF THE CASE

The defendant, Sandra Ann Craig, was convicted in the Howard County Circuit Court of child abuse, first and second degree sexual offense, perverted practice, and assault and battery on a child who had attended her day care center. At the trial, the victim, a girl then seven years old, as well as three younger children,[1] who the State alleged had also been abused by Craig at her day care center, testified via one-way closed circuit television. This procedure was authorized by Md. Cts. & Jud. Proc. Code Ann. § 9-102(a)(1)(ii) (Supp. 1987) so long as the trial judge first "determines that the testimony by the child victim in the courtroom will result in the child suffering serious emotional distress such that the child cannot reasonably communicate."

In upholding the conviction by use of closed circuit television in the *Craig* case, the Court of Special Appeals of Maryland found that the trial judge had properly relied on testimony by treating therapists as to each child's inability to communicate in the court-

[1] The other children were two 5-year-old boys and a 4-year-old girl.

room, 76 Md. App. 250, 544 A.2d 784 (1988). However, the Court of Appeals of Maryland reversed the conviction in the *Craig* case, relying on this Court's decision in *Coy v. Iowa*, ___ U.S. ___, 108 S.Ct. 2798, 101 L.Ed. 2d 857 (1988). Noting *Coy*'s insistence on the defendant's right to a face-to-face confrontation with her accuser, Maryland's highest court found that the threshold showing of necessity for use of closed circuit television in the *Craig* case was insufficient. The Court held that a judge may not rely solely on expert testimony to make a finding of witness unavailability under § 9-102(a)(1)(ii), but instead must observe the child being questioned in the defendant's presence.[2] If the judge concludes that the child cannot reasonably communicate because of serious emotional distress produced by the defendant's presence, he must then observe whether two-way television or any other device short of one-way closed circuit will enable the child to testify. *Craig v. State*, 316 Md. 551, 560 A.2d 1120 (1989). It is only after this multi-step process that the trial court may utilize the closed circuit procedure of § 9-102.

REASONS FOR GRANTING THE WRIT

I. The Maryland Court of Appeals' Reading of *Coy* Eviscerates Maryland's Statutory Attempt to Protect Child Victims.

A substantial majority of states have recognized that the protection of child witnesses furthers an important public policy and have enacted statutes de-

[2] The Court considered inability of the child to testify in the courtroom as not sufficient to justify use of closed circuit television under the Sixth Amendment and § 9-102.

signed to protect child victims of abuse from the trauma of testifying in front of their abusers. Numerous researchers and commentators have documented the serious emotional trauma to young children caused by facing their abusers in legal proceedings. *See* D. Whitcomb, E. Shapiro, and L. Stellwagen, *When The Victim Is A Child: Issues for Judges and Prosecutors* 17-18 (1985); Goodman, Jones, Pyle *et al.*, "The Emotional Effects of Criminal Court Testimony on Child Sexual Assault Victims," in *Proceedings from the International Conference on Child Witnesses: Do the Courts Abuse Children?* (British Psychological Association); *see also*, Avery, *The Child Abuse Witness: Potential for Secondary Victimization*, 7 Crim. Just. J. 1, 3-4 (1983); Libai, *The Protection of the Child Victim of a Sexual Offense in the Criminal Justice System*, 15 Wayne L. Rev. 977, 998-999 (1969); Myers, *The Legal Response to Child Abuse: In the Best Interests of Children?*, 24 J. Fam. L. 146, 182-184 (1985-86); Melton, *Child Witness and the First Amendment: A Psychological Dilemma*, 40 J. Soc. Issues 109, 110 (No. 2 1984); J. Bulkley & H. Davidson, *Child Sexual Abuse—Legal Issues and Approaches* 11 (1980).

Yet, if the interpretation by the Maryland Court of Appeals of *Coy* is allowed to stand, it will effectively eviscerate Maryland's attempts to protect child victims via the closed circuit television statute. At best, the statute will be rendered useless; at worst, should a prosecutor utilize the statute, adopting the procedures prescribed in *Craig*, the resulting trauma to the child will be unacceptable. Indeed, by finding that *Coy* requires that "§ 9-102 ordinarily cannot be invoked unless the child witness initially is questioned (either

in or outside the courtroom) in the defendant's presence. . . .", 316 Md. 551, 560 A.2d at 1127, the Court requires infliction on the child witness of the very trauma which the statute is meant to alleviate.[3]

Although the jury convicted Craig, relying on *Coy*, the appeals court below reversed the conviction based on its belief that expert opinion was an insufficient basis to justify utilizing closed circuit television. In attempting to comply with the ruling in *Coy*, the Court set up a two-step procedure to determine when and if a child should be allowed to testify by closed circuit television. If the prosecution proceeds as mandated by the Court of Appeals of Maryland, the child is first subjected to a face-to-face confrontation with the abuser. Should the child exhibit the requisite "severe emotional distress", then the child passes the first test and is entitled to face the next obstacle. In step number two, the child is now tested to see if he or she is capable of testifying utilizing two-way television. Only if the victim proves to be demonstrably unable to proceed using two-way television, may the child finally be permitted to testify by closed circuit television as provided in the Maryland statute, *Craig*, 316 Md. 551, 560 A.2d at 1128.

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[3] In the case at bar, the trial court heard extensive and specific opinions from various expert witnesses about what effect the defendant's presence would have on each of the child victims if the child were forced to face the defendant in court. Mary Burke, a treating child therapist with the Howard County Sexual Assault Center, testified that it would be difficult or impossible for the victim to sit in the same room with Sandra Craig, that the fear and anxiety would manifest itself by disruptions in her breathing, that she would curl up in a ball, and that two other children would burst into tears and be unable to proceed (E.75,80,85).

Under this procedure, a child victim is not entitled to the protection intended by the statute unless the child breaks down twice. It not only subjects children to unnecessary trauma, it also will have a devastating effect on the ability of the State to prosecute child abusers. First, a child who has been severely traumatized twice in the courtroom will likely be in such shambles that the child will be unable to proceed even via the one-way closed circuit television.

But, more fundamentally, neither responsible prosecutors nor parents will be willing to put children through this further ordeal, with a consequent loss in ability to prosecute child abusers. As it is, this Court has recognized: "Child abuse is one of the most difficult crimes to detect and prosecute, in large part because there often are not witnesses except the victim." *Pennsylvania v. Ritchie*, 480 U.S. 39, 107 S.Ct. 987, 94 L.Ed. 2d 40, 59 (1987). The multiple step procedure required by *Craig* virtually guarantees abusers immunity from prosecution by rendering the only witnesses to their crimes mute.

It is well documented that many parents, recognizing how grueling the criminal process can be, have failed to report sexual assaults in order to protect their children from courtroom trauma. J. MacDonald, *Rape Offenders and Their Victims*, 128-29 (1971). Parents who are willing to permit their children to testify at all, do so primarily for the benefit of society. The hope is that the child's testimony will convict the abuser so that he or she will not be in a position to abuse someone else's child. If the burden of testifying becomes too heavy, these parents simply will not permit their children to be exposed to the trauma of the judicial system. The abuser will be free to continue.

Furthermore, the overly narrow application of the ruling of *Coy* by the Court of Appeals of Maryland in *Craig* impedes, rather than aids, the truth-seeking function of the court. Whereas having the adult accuser face the accused has historically enhanced the truth-finding process, see *Pointer v. Texas*, 380 U.S. 400, 408, 85 S.Ct. 1065, 1068, 13 L.Ed. 2d 923 (1965), the contrary is more often the result with children. As a recognized expert in forensic psychology testified in *State v. Sheppard*, 197 N.J. Super. 411, 484 A.2d 1330, 1332 (1984):

> [T]he victim has the capacity to testify truthfully. It was [the doctor's] opinion, however, that avoidance of an in-court appearance through the use of video equipment would improve the accuracy of her testimony. He provided reasons: An adult witness, testifying in court, surrounded by the usual court atmosphere, aware of the black-robed judge, a jury, attorneys, members of the public, uniformed attendants, a flag, and religious overtones, is more likely to testify truthfully. The opposite is true of a child, particularly when the setting involves a relative accused by her of sexual abuse. She becomes fearful, guilty, anxious, and traumatized. In most cases, she will have been exposed to both pleasant and abusive associations with the accused. As a consequence, she has ambivalent feelings. Anger against the relative is opposed by feelings of care, not only for him but also for other family members who may be harmed by a conviction. There is guilt as well as satisfaction in the prospect of sending the abuser to prison. These mixed feelings, accompanied by the fear, guilt, and anxiety, mitigate the truth, producing inaccurate testimony. The video arrangement, because it avoids courtroom stress, relieves these feelings, thereby improving the accuracy of the testimony.

There is little danger that prosecutors would overuse closed circuit television. A witness who is able to communicate in open court, especially in front of a jury, is far more effective than one whose testimony can only be heard and seen by the jury on a television screen. *See* Myers, *The Legal Response to Child Abuse: In the Best Interests of Children?* 24 J. Fam. L. 149, 240 (1985-86). Thus, for tactical reasons, prosecutors would not consider using closed circuit television unless they were dealing with a child who had been so traumatized that the child could not communicate effectively in open court in the defendant's presence. But it is precisely *this* kind of child who would be subjected to the approach of the Court of Appeals of Maryland.

This abused child frequently has suffered from the abusive acts not once but repeatedly over an extended period of time and has been seriously threatened by the abuser in order to intimidate the child into silence. *See* MacFarlane, "Sexual Abuse of Children," in *Victimization of Women* 81 (J. Chapman & M. Gates eds. 1978). Commonly, children are told that if they tell, their parents won't love them anymore, their parents will die, they will be killed, or they will get in a lot of trouble. *See, e.g., State v. Sheppard*, 197 N.J. Super. 411, 484 A.2d at 1332. In day care abuse cases, such

as *Craig*, researchers have concluded that, in order to force cooperation and silence, children are "more threatened, coerced and terrorized than in many other kinds of sexual abuse . . . The fear and terror that many of the children suffered as a result of being threatened and coerced seem to be a special part of the situation of day care abuse." Finkelhor, Williams, Burns and Kalinowski, *Sexual Abuse in Day Care: A National Study* at 89 (March, 1988).[4]

This threatened and repeatedly abused child is now asked to confront face-to-face, not once but twice, the very person who threatened and terrorized him or her. A child so traumatized is more likely, out of fear, to recant or refuse to speak at all, rather than hazard the terrible consequences of telling the truth.

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[4] The authors studied cases of sexual abuse in day care nationwide occurring from 1983-1985. In 270 facilities where substantiated abuse had occurred, there were a total of 1,639 victimized children. The authors found that "[s]ome kind of physical force—ranging from holding a child down, to tying her up, to hanging a child up by his heels—was present in 31% of all cases, and the threat of force in 42%." *Id.* at 85. As they noted:

> Threats of force were even more common than the actual use of force. Children were threatened with death, beatings, humiliations and punishments. Threats were made against their families and their pets. They were taken to graveyards and told that this was where they or their parents would be put. But with such young children, even threats that would appear innocuous to adults may have taken on very terrorizing aspects. Children were threatened with snakes, spiders, wild animals and monsters. In some of the ritual cases, perpetrators claimed to have supernatural powers. These were probably among the most terrorizing of the experiences that children had.

Id. at 87.

Thus, the Court of Appeals' interpretation of *Coy* results in a triple victimization of the child (once by the abuser, twice by the court). The two-step procedure required by *Craig* will substantially hinder, rather than help successful prosecution of child abuse, undermining the purpose of Maryland's closed circuit statute.

II. *Craig* Provides the Oppportunity to Clarify *Coy v. Iowa*.

A. *Coy* Has Cast A Shadow Over Many States' Child Protection Statutes.

Coy v. Iowa answered only the question of constitutionality of an unusual state statute that *assumed* that alleged child victims of sexual abuse would be traumatized by seeing the defendant charged with the abuse. It alluded to, but left unanswered, the question of constitutionality of the much more predominant type of state statute, such as Maryland's, which provides for protective steps to be taken only after an individualized finding of necessity has been made.

Coy left unresolved three pivotal questions: (1) whether a statute which requires an individualized showing of necessity before protective procedures may be used is constitutional; (2) what *degree* of necessity must be shown by the prosecution before the protective procedure may be used; and (3) *how* must that showing of necessity be made.

At least four sitting Justices—those concurring and those dissenting in *Coy*—would seem inclined to find a state statute requiring a case-specific finding of necessity to be shown, to be constitutional. Nonetheless, the statutes of all such states, permitting closed-circuit and videotaped testimony, are cast in shadow by

Coy. This is particularly disturbing in light of the fact that many of these statutes had been upheld by state courts as constitutional, before *Coy*. *E.g.*, *State v. Chisholm*, 243 Kan. 270, 755 P.2d 547 (1988); *Commonwealth v. Willis*, 716 S.W.2d 244 (Ky. 1986); *State v. Racca*, 525 So.2d 1229 (La. Ct. App. 1988); *Wildermuth v. State*, 310 Md. 496, 530 A.2d 275 (1987); *People v. Kasben*, 158 Mich. App. 252, 404 N.W.2d 723 (1987) (preliminary hearing); *State v. Sheppard*, 197 N.J. Super. 411, 484 A.2d 1330 (1984); *People v. Algarin*, 129 Misc.2d 1016, 498 N.Y.S.2d 97 (N.Y. Sup. Ct. 1986); *Commonwealth v. Lohman*, 536 A.2d 809 (Pa. Super. 1988).

The Maryland statute requires that the trial judge determine that testifying in open court would cause the child such "serious emotional distress" that he or she "cannot reasonably communicate." Md. Cts. & Jud. Proc. Code Ann. § 9-102(a)(1)(ii) (Supp. 1987). *Craig*, relying on *Coy*, holds that the Constitution requires that the child victim be questioned *in front* of the defendant, in order for the judge to determine whether the child requires the protection of the statute.

If the interpretation of the Sixth Amendment Confrontation Clause by the court in *Craig* is correct, then many other states' protective statutes are unconstitutional. For example, Indiana Code Annotated § 35-37-4-8(d)(1)(C)(i) allows certification by a psychiatrist that the child would be traumatized by so testifying, to show that the child is unavailable to testify. *Altmeyer v. State*, 496 N.E.2d 1328 (Ind. App. 1986). Under the Maryland Court's interpretation of *Coy*, this statute would be unconstitutional. So too would be California Evidence Code § 240, which provides

that expert testimony regarding the child's trauma is sufficient.

Thus, this Court can use *Craig* to clarify the questions of whether and when the state's interest in protecting its child abuse victims is so compelling as to override the defendant's right to be in the same room, and face-to-face, with the child, and how that showing may constitutionally be made.

B. The Rationale Of *Coy* Is In Apparent Conflict With Other Decisions By This Court.

Coy's emphasis on the literal meaning of the word "confrontation" is in apparent conflict with cases such as *Ohio v. Roberts*, 448 U.S. 56, 63, 100 S.Ct. 2531, 2537-2538, 65 L.Ed.2d 597, 605-607 (1980) (literal interpretation of confrontation clause rejected as "unintended and too extreme;" hearsay may be admitted against accused if state has made showing of necessity, as by unavailability of the hearsay declarant, and statement bears sufficient indicia of reliability); *Lee v. Illinois*, 476 U.S. 530, 106 S.Ct. 2056, 90 L.Ed. 2d 514 (1986) (emphasizing lack of cross-examination as central to finding of violation of right of confrontation); *Douglas v. Alabama*, 380 U.S. 415, 85 S.Ct. 1074, 13 L.Ed. 2d 934 (1965) (*semble*); and *Bourjaily v. United States*, 483 U.S. 171, 107 S.Ct. 2775, 97 L.Ed. 2d 144 (1987) (admission under Fed. R. Evid. 801(d)(2)(E) of out-of-court statement of an unavailable coconspirator does not violate accused's confrontation right; coconspirator hearsay exception (nonhearsay under Fed. R. Evid.) is firmly enough rooted in our jurisprudence that, under *Ohio v. Roberts*, a court need not independently inquire into the reliability of such statements); *see also United States v. Inadi*, 475 U.S. 387, 106 S.Ct. 1121, 89 L.Ed. 2d

390 (1986) (coconspirator need not be shown to be unavailable to testify before coconspirator's statement made during and in furtherance of the conspiracy may be admitted against defendant). *Cf. Kentucky v. Stincer*, 482 U.S. 730, 107 S.Ct. 2658, 96 L.Ed. 2d 631 (1987) (accused's confrontation right was not violated by barring him, but not his counsel, from pretrial hearing on whether child sexual abuse victims were competent to testify at trial).

These conflicts have aroused much comment and created debate about which model is the true one: the literal reading of the confrontation clause in Justice Scalia's opinion in *Coy*, or the cross-examination model of the cases such as *Lee v. Illinois* and *Douglas v. Alabama*, permitting even the admission of uncross-examined hearsay when a showing of necessity and reliability is made, under *Ohio v. Roberts* and *Bourjaily; see, e.g.*, Epps, *Passing the Confrontation Clause Stop Sign: Is All Hearsay Constitutionally Admissible?*, 77 Ky. L.J. 7 (1988) (discussing hearsay and the confrontation clause as separate concepts and their conflicting relationships); Lilly, *Notes on the Confrontation Clause* and *Ohio v. Roberts*, 316 U. Fla. L. Rev. 207, 207 (1984) ("an intractable problem in criminal trials"); *Supreme Court Ramifications: Reliability of Codefendant Confessions and the Confrontation Clause: Lee v. Illinois*, 2 J. Legal Comm. 121, 124-25 (1987) (noting conflict between permitting exceptions to the hearsay rule and a literal interpretation of the confrontation clause); Comment, *The Confrontation Clause and the Hearsay Rule: A Problematic Relationship in Need of Practical Analysis*, 14 Fla. St. U. L. Rev. 949 (1987); Comment, *Balancing the Right to Confrontation and the Need to Protect Child*

Sexual Abuse Victims: Are Statutes Authorizing Televised Testimony Serving Their Purpose?, 12 U. Puget Sound L. Rev. 109 (1988) (arguing that the "hearsay" model of *Ohio v. Roberts* is inapplicable where a child testifies on closed circuit television, because the child is for all practical purposes available to testify, and that what the author believes to be the more lenient model of *Coy* should apply).

This Court can use *Craig* as the vehicle to resolve the apparent conflict between its earlier decisions and the literal approach espoused in *Coy*.

CONCLUSION

By its overly strict interpretation of the confrontation requirement of the Sixth Amendment, the Court of Appeals of Maryland, relying on *Coy*, has effectively nullified Maryland's closed circuit television law meant to protect child victims: a statute that, by its own terms, requires a case-specific finding of necessity before the closed-circuit procedure may be used. The Court, in erecting a two-step confrontational hurdle for children and prosecutors to surmount before the protective procedures in the statute may be invoked, has required that abused children be subjected to that very emotional trauma from which the law was intended to protect them.

This case provides this Court with the opportunity to address several questions clouded by *Coy*, most particularly, the constitutionality of a state statute requiring a case-specific showing of necessity and any constitutional limitations on how that showing may be made.

For these reasons, *amici* request this Court to issue a Writ of Certiorari to the Court of Appeals of Maryland.

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